

UPDATE: TRANS-PACIFIC PARTNERSHIP

Overview

Currently 11 countries: the United States, Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam*.

- Region represents more than 40% of global trade
- As a group, with the addition of Mexico and Canada, the TPP countries are the largest goods and services export market of the United States.
- U.S. goods exports to the broader Asia-Pacific totaled \$895 billion in 2011, representing 60 percent of total U.S. goods exports.
- U.S. exports of agricultural products to the region totaled \$98 billion in 2011, 72 percent of total U.S. agricultural exports.
- U.S. private services exports totaled \$205 billion in 2009 (latest data available), 39 percent of total U.S. private services exports to the world.
- America's small- and medium-sized enterprises exported \$219 billion to the Asia-Pacific in 2010.

* Japan has officially issued a statement of interest to join TPPA negotiations (March 2013) – would add world's third-largest economy to the agreement.

* Thailand formally expressed interest in joining TPPA during President's visit (Nov. 2012)

Negotiation Status: - Singapore, 16th Round, completed March
- 17th Round – Lima, Peru, May 15-24

Although negotiations were originally scheduled to close in October 2013 will most likely be delayed.

Legal Framework: 29 Chapters

- Technical work completed on four chapters as of March 2013:
 - Regulatory coherence
 - Customs
 - Development
 - Telecommunications
- U.S. aims to complete technical work on four additional chapters in May 2013:
 - Sanitary and phytosanitary (SPS) issues
 - Key issue = dispute resolution; U.S. has proposed a “consultative mechanism” involving a neutral facilitator;
 - U.S. agriculture and food groups are opposed – fighting to preserve normal TPP dispute settlement procedures
 - Reportedly opposed by New Zealand and others
 - Technical barriers to trade (TBT)
 - Work remains on seven proposed annexes, including U.S. proposal for three sector-specific annexes that focus on easing regulatory barriers for medical devices, cosmetics, and pharmaceutical products
 - USTR and IP protection for pharmaceuticals – U.S. industry pushing for stronger patent protections (20-year, new use, etc.);
 - Most countries, Doctors Without Borders, challenging on basis that strict IP protections will limit access to medicines for Asian-Pacific poor.
 - Pharm IP will not be discussed at next round
 - Malaysia has tabled its proposal to prevent a TPP country from requiring companies to submit proprietary formulas for foods and food products as a condition of marketing in a TPP territory.
 - Investment
 - Close to completion, but does not include non-conforming measures, which describe the investment and service sectors that countries are seeking to exempt from liberalization in TPP.

- Services (see above)
- Technical work continuing:
 - Labor
 - Canada proposing labor-related dispute mechanism that limits enforcement of trade or investment-related labor rights violations to monetary fines (no legal text offered)
 - Differs from U.S. position, from US-Peru FTR, that allows both fines and trade sanctions based on the amount of trade affected by a given pattern of labor rights violations
 - Dispute settlement
 - Rules of origin
 - E-Commerce
 - Intellectual Property Rights
 - Competition
 - Only outstanding issue = U.S. proposal for disciplines on state-owned enterprises
 - Environment
- Japan
 - U.S. agriculture and food industries support inclusion of Japan
 - U.S. unions oppose inclusion of Japan
 - Problem sectors are insurance (state-owned insurance company expanding = SOE), automotive, and agriculture
- Korea thus far chooses not to participate in TPPA, despite U.S. encouragement
- TPP – Tobacco Proposal (May 2012); three elements:
 - (1) It would explicitly recognize the unique status of tobacco products from a health and regulatory perspective.
 - (2) As in the past, the proposal would make tobacco products (like other products) subject to tariff phase-outs, thus avoiding putting U.S. tobacco products at a competitive disadvantage and

avoiding a precedent for excluding tobacco or other products from future U.S. tariff negotiations. The United States will engage in discussions regarding the elimination of tariffs and tariff rate quotas with the four countries with which the United States is negotiating bilaterally—Brunei, Malaysia, New Zealand and Vietnam. Tariffs and tariff rate quotas on tobacco and tobacco product trade with Australia, Chile, Peru and Singapore have already been eliminated or are being phased out under the provisions of our existing bilateral FTAs with those countries.\

(3) The proposal would include language in the “general exceptions” chapter that allows health authorities in TPP governments to adopt regulations that impose origin-neutral, science-based restrictions on specific tobacco products/classes in order to safeguard public health. This language will create a safe harbor for FDA tobacco regulation, providing greater certainty that the provisions in the TPP will not be used in a manner that would prevent FDA from taking the sorts of incremental regulatory actions that are necessary to effectively implement the Tobacco Control Act, while retaining important trade disciplines (national treatment, compensation for expropriations, and transparency) on tobacco measures.

→ New Zealand doctors’ organizations (400+ health professionals) urging New Zealand to oppose TPP tobacco proposals due to risks of overriding public safety measures.